



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/10768/2019

THE IMMIGRATION ACTS

**Heard remotely via Skype for Business
On 12 March 2021**

**Decision & Reasons
Promulgated
On 24 March 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**A R
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Shah

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a male citizen of Bangladesh, appeals against a decision of the First-tier Tribunal promulgated on 27 February 2020 dismissing his

appeal against a decision of the Secretary of State dated 16 October 2019 which refused his claim for international protection.

2. The decision under challenge is the second determination of an appeal brought by the appellant. The first, following a refusal of asylum dated 20 April 2016, was dismissed by the First-tier Tribunal on 10 October 2016.
3. The grounds and the appellant in his witness statement repeatedly assert that the Secretary of State should have verified various documents which the appellant had adduced in evidence. There was no obligation on the Secretary of State to carry out such a verification. It is for the appellant to discharge the burden of proof by reference to the appropriate standard of proof. The judge did not fall into error by failing to require the Secretary of State to verify documents nor did she do so by relying on *Tanveer Ahmed** [2002] UKIAT 00439 to guide her assessment of the documentary evidence.
4. Having said that, there are problems with the First-tier Tribunal's decision. The analysis is thorough but at times the text is unclear, perhaps, in part, as a consequence finding poor proof-reading. At [38], the judge writes that she 'will place no evidential weight on none of these documents (*sic*).' The first sentence of the following paragraph reads, 'I have nevertheless considered some of the documents.' It is not clear why the judge has considered some documents and not others or why she has considered any documents having (I assume) already intended to indicate in the previous paragraph that she would not place 'evidential weight' on any document. More problematic, is that the judge at [35] and [36] states that appellant had given 'no explanation' for a discrepancy between the date on some of the documents sent from abroad and the apparent dates of posting. This is problematic because the appellant had provided an explanation in his witness statement of 31 January 2020 at paragraphs [38-43]. The judge was not, of course, obliged to accept the appellant's explanation. She was not obliged to refer to every item of evidence or every part of the witness account given by the appellant. However, stating categorically that there had been 'no explanation' for the discrepancy was factually incorrect and emphasises the fact that the judge had not addressed or made any finding on that explanation.
5. There is force in the submission made by Mr Diwnycz, who appeared before the Upper Tribunal for the Secretary of State, that the determination of the appellant's first appeal had been entirely damning of his credibility as a witness. It may well be that the explanation provided by the appellant is found to be inadequate or incredible. As I have stated above, it is for the appellant to persuade the Tribunal that his evidence is credible; he cannot point to a failure of the Secretary of State to verify documents as proof that they or their contents should be accepted as genuine. However, I find that, in this instance, the judge has fallen into error and her decision should be set aside. The judge was required to consider a explanation where one had been offered and her findings on the documentary evidence are unsound in consequence. There will need

to be new fact-finding exercise at a *de novo* hearing and the decision remade. That task is better undertaken in the First-tier Tribunal to which the appeal is now returned.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for a hearing *de novo* (**not Judges Geraint Jones or O'Garro; Hatton Cross; First-tier Tribunal to determine if face to face or remote; Bangali (Sylheti) interpreter; 1.5 hours; first available date**)

Signed
Upper Tribunal Judge Lane

Date 12 March 2021

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.